IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

ARBITRATION PETITION (Lodging)NO.335 OF 2007

M/s.Air Wide Express Cargo — Petitioners
vs.
Union of India & anr. — Respondents

Ms.Soumya Shrikrishna i/b.M/s.Sonal Doshi & Co. for the petitioners.

Mr.Chetan Agrawal for respondent no.1.

CORAM : ANOOP V. MOHTA,J.

DATED : 26th June, 2007

P.C.

The petitioners have invoked Section 9 of the Arbitration & Conciliation Act, 1996 (Arbitration Act, 1996), based on the arbitration clause contained in the agreement dated 1st June, 2004. By letter dated 8.5.2005 the petitioners have already invoked arbitration clause in view of the demand made by the respondents as referred in the letters dated 18.5.2007 and 2.6.2007. Admittedly till this date, the respondents have not appointed the Arbitrator. The petition under Section 11 of the Arbitration Act filed by the petitioners is also pending.

2. There is no dispute that the petitioners have published a policy whereby subject to satisfaction they can grant extension upto two years more even after

expiry of the licence period.

3. In the present case, admittedly there is a dispute arose between the parties. In view of this, the respondents are at liberty, in view of their own policy to consider the case of the petitioners for further extension. However, that itself cannot be the reason to grant the prayer and restrain the respondents from opening the tender dated 1st June, 2007 which is likely to be opened on 28.6.2007 to award the said tender to any third party. There is no further question of granting any interim order against the respondents from invoking the Bank Guarantee dated 30.4.2007.

4. The learned counsel for the respondents further accepts the statement made by the learned counsel for the petitioners that there is an extension already granted upto 31st July 2007.

5. Even otherwise, the respondents will take further more than one months time to finalise the newly invited tenders.

6. Keeping all points open and considering the fact that the petitioners have already invoked the arbitration clause, there is no case made out for grant of any interim relief as prayed.

7. However, the petition is disposed of with the above observation that the respondents are at liberty to consider the case of the petitioners as per their declared policy. The petition is accordingly disposed of.

8. No costs.

[ANOOP V. MOHTA,J.]